

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1022

Introduced by Assembly Member Obernolte

February 26, 2015

An act to ~~amend Section 2827 of~~ *repeal and add Section 2861 of, and to repeal Sections 2862, 2863, 2864, 2865, 2866, 2867, 2867.1, 2867.2, 2867.3, and 2867.4 of*, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1022, as amended, Obernolte. ~~Net energy metering—Solar Water Heating and Efficiency Act of 2007.~~

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including gas corporations. The Solar Water Heating and Efficiency Act of 2007 requires the commission, if it determines that a solar water heating program is cost effective for ratepayers and in the public interest, to design and implement a program applicable to the service territories of a gas corporation to achieve the goal of the Legislature to promote the installation of 200,000 solar water heating systems, as defined, in homes, businesses, and buildings or facilities of eligible customer classes, as specified, receiving natural gas service throughout the state by 2017. The act prohibits funding from exceeding \$250,000,000 for the collective service territories of all gas corporations over the 10-year life of the program and requires that the cost of the program be paid through a usage-based surcharge annually established for each class of gas customers, with specified exceptions. The act requires the governing body of each publicly owned utility providing gas service to retail end-use customers to adopt,

implement, and finance a solar water heating system incentive program that meets certain requirements. Existing law repeals these requirements on August 1, 2018.

This bill would repeal the substantive requirements of the act and would prohibit any additional moneys from being collected from ratepayers to fund the act after December 31, 2015. The bill would require that any loans that are outstanding as of January 1, 2016, that were made pursuant to the act, continue to be repaid in a manner that is consistent with the terms and conditions of the loan agreements, until repaid in full. The bill would authorize moneys to be dispersed after January 1, 2016, that were encumbered on or before December 31, 2015, pursuant to the act and would require that all moneys not encumbered on or before December 31, 2015, that were collected from ratepayers pursuant to the act and all loan repayments be refunded to the ratepayers in proportion to the ratepayer classes from which they were collected.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the bill requires action by the commission to implement certain of its requirements, a violation of these commission orders would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires every electric utility to make available to an eligible customer-generator a standard contract or tariff for net energy metering on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds 5% of the electric utility's aggregate customer peak demand.~~

~~This bill would make technical, nonsubstantive revisions to the net energy metering requirements.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 2861 of the Public Utilities Code is~~
2 ~~repealed.~~

3 ~~2861. As used in this article, the following terms have the~~
4 ~~following meanings:~~

5 ~~(a) “Gas customer” includes both “core” and “noncore”~~
6 ~~customers, as those terms are used in Chapter 2.2 (commencing~~
7 ~~with Section 328) of Part 1, that receive retail end-use gas service~~
8 ~~within the service territory of a gas corporation.~~

9 ~~(b) “kW_{th}” means the kilowatt thermal capacity of a solar water~~
10 ~~heating system, measured consistent with the standard established~~
11 ~~by the SRCC.~~

12 ~~(c) “kWh_{th}” means kilowatthours thermal as measured by the~~
13 ~~number of kilowatts thermal generated, or displaced, in an hour.~~

14 ~~(d) “Low-income residential housing” means either of the~~
15 ~~following:~~

16 ~~(1) Residential housing financed with low-income housing tax~~
17 ~~credits, tax-exempt mortgage revenue bonds, general obligation~~
18 ~~bonds, or local, state, or federal loans or grants, and for which the~~
19 ~~rents of the occupants who are lower income households, as defined~~
20 ~~in Section 50079.5 of the Health and Safety Code, do not exceed~~
21 ~~those prescribed by deed restrictions or regulatory agreements~~
22 ~~pursuant to the terms of the financing or financial assistance.~~

23 ~~(2) A residential complex in which at least 20 percent of the~~
24 ~~total units are sold or rented to lower income households, as defined~~
25 ~~in Section 50079.5 of the Health and Safety Code, and the housing~~
26 ~~units targeted for lower income households are subject to a deed~~
27 ~~restriction or affordability covenant with a public entity that ensures~~
28 ~~that the units will be available at an affordable housing cost~~
29 ~~meeting the requirements of Section 50052.5 of the Health and~~
30 ~~Safety Code, or at an affordable rent meeting the requirements of~~
31 ~~Section 50053 of the Health and Safety Code, for a period of not~~
32 ~~less than 30 years.~~

33 ~~(e) “New Solar Homes Partnership” means the 10-year program,~~
34 ~~administered by the Energy Commission, encouraging solar energy~~
35 ~~systems in new home construction.~~

36 ~~(f) “Solar heating collector” means a device that is used to~~
37 ~~collect or capture heat from the sun and that is generally, but need~~
38 ~~not be, located on a roof.~~

(g) ~~“Solar water heating system” means a solar energy device that has the primary purpose of reducing demand for natural gas through water heating, space heating, or other methods of capturing energy from the sun to reduce natural gas consumption in a home, business, or any building or facility receiving natural gas that is subject to the surcharge established pursuant to subdivision (b) of Section 2863, or exempt from the surcharge pursuant to subdivision (c) of Section 2863, and that meets or exceeds the eligibility criteria established pursuant to Section 2864. “Solar water heating systems” include multifamily residential, governmental, educational, and nonprofit solar pool heating systems, but do not include single-family residential solar pool heating systems.~~

(h) ~~“SRCC” means the Solar Rating and Certification Corporation.~~

SEC. 2. Section 2861 is added to the Public Utilities Code, to read:

2861. (a) No additional moneys may be collected from ratepayers to fund the Solar Water Heating and Efficiency Act of 2007 after December 31, 2015, and no moneys collected from ratepayers on or before that date shall be dispersed other than as directed by subdivisions (c) and (d).

(b) All loans made pursuant to the Solar Water Heating and Efficiency Act of 2007 that are outstanding as of January 1, 2016, shall continue to be repaid in a manner that is consistent with the terms and conditions of the loan agreements, until repaid in full.

(c) Moneys may be dispersed after January 1, 2016, that were encumbered on or before December 31, 2015, pursuant to the Solar Water Heating and Efficiency Act of 2007.

(d) All moneys not encumbered on or before December 31, 2015, that were collected from ratepayers and all loan repayments made pursuant to the Solar Water Heating and Efficiency Act of 2007 shall be refunded to the ratepayers in proportion to the ratepayer classes from which they were collected.

SEC. 3. Section 2862 of the Public Utilities Code is repealed.

~~2862. The Legislature finds and declares all of the following:~~

~~(a) California is heavily dependent on natural gas, importing more than 80 percent of the natural gas it consumes.~~

~~(b) Rising worldwide demand for natural gas and a shrinking supply create rising and unstable prices that can harm California consumers and the economy.~~

1 ~~(c) Natural gas is a fossil fuel and a major source of global~~
2 ~~warming pollution and the pollutants that cause air pollution,~~
3 ~~including smog.~~

4 ~~(d) California's growing population and economy will put a~~
5 ~~strain on energy supplies and threaten the ability of the state to~~
6 ~~meet its global warming goals unless specific steps are taken to~~
7 ~~reduce demand and generate energy cleanly and efficiently.~~

8 ~~(e) Water heating for domestic and industrial use relies almost~~
9 ~~entirely on natural gas and accounts for a significant percentage~~
10 ~~of the state's natural gas consumption.~~

11 ~~(f) Solar water heating systems represent the largest untapped~~
12 ~~natural gas saving potential remaining in California.~~

13 ~~(g) In addition to financial and energy savings, solar water~~
14 ~~heating systems can help protect against future gas and electricity~~
15 ~~shortages and reduce our dependence on foreign sources of energy.~~

16 ~~(h) Solar water heating systems can also help preserve the~~
17 ~~environment and protect public health by reducing air pollution,~~
18 ~~including carbon dioxide, a leading global warming gas, and~~
19 ~~nitrogen oxide, a precursor to smog.~~

20 ~~(i) Growing demand for these technologies will create jobs in~~
21 ~~California as well as promote greater energy independence, protect~~
22 ~~consumers from rising energy costs, and result in cleaner air.~~

23 ~~(j) It is in the interest of the State of California to promote solar~~
24 ~~water heating systems and other technologies that directly reduce~~
25 ~~demand for natural gas in homes and businesses.~~

26 ~~(k) It is the intent of the Legislature to build a mainstream~~
27 ~~market for solar water heating systems that directly reduces demand~~
28 ~~for natural gas in homes, businesses, schools, nonprofit, and~~
29 ~~government buildings. Toward that end, it is the goal of this article~~
30 ~~to install at least 200,000 solar water heating systems on homes,~~
31 ~~businesses, and other buildings or facilities of eligible customer~~
32 ~~classes throughout the state by 2017, thereby lowering prices and~~
33 ~~creating a self-sufficient market that will sustain itself beyond the~~
34 ~~life of this program.~~

35 ~~(l) It is the intent of the Legislature that the solar water heating~~
36 ~~system incentives created by this article should be a cost-effective~~
37 ~~investment by gas customers. Gas customers will recoup the cost~~
38 ~~of their investment through lower prices as a result of avoiding~~
39 ~~purchases of natural gas.~~

~~(m) It is the intent of the Legislature that this article will encourage the cost-effective deployment of solar heating systems in both residential and commercial markets and in each end-use application sector in a balanced manner. It is the intent of the Legislature that the commission monitor and adjust incentives created by this article so that they are cost-effective investments sufficient to significantly increase markets and promote market transformation. It is the intent of the Legislature that the commission ensure that increased, uniform growth in each market sector is achieved through program incentives or structure adjustments that prevent overutilization of program resources by any single sector.~~

SEC. 4. Section 2863 of the Public Utilities Code is repealed.

~~2863. (a) If, after a public hearing, the commission determines that a solar water heating program is cost effective for ratepayers and in the public interest, the commission shall do all of the following:~~

~~(1) Design and implement a program applicable to the service territories of a gas corporation, to achieve the goal of the Legislature to promote the installation of 200,000 solar water heating systems in homes, businesses, and buildings or facilities of eligible customer classes receiving natural gas service throughout the state by 2017. Eligible customer classes shall include single-family and multifamily residential, commercial, industrial, governmental, nonprofit, and primary, secondary, and postsecondary educational customers.~~

~~(2) The program shall be administered by gas corporations or third-party administrators, as determined by the commission, and subject to the supervision of the commission.~~

~~(3) The commission shall coordinate the program with the Energy Commission's New Solar Homes Partnership to achieve the goal of building zero-energy homes.~~

~~(4) The commission shall determine an appropriate division of funds between solar water heating systems that are and are not solar pool heating systems.~~

~~(b) (1) The commission shall fund the program through the use of a surcharge applied to gas customers based upon the amount of natural gas consumed. The surcharge shall be in addition to any other charges for natural gas sold or transported for consumption in this state.~~

1 ~~(2) The commission shall impose the surcharge at a level that~~
2 ~~is necessary to meet the goal of installing 200,000 solar water~~
3 ~~heating systems, or the equivalent output of 200,000 solar water~~
4 ~~heating systems, on homes, businesses, and buildings or facilities~~
5 ~~of eligible customer classes receiving natural gas service in~~
6 ~~California by 2017. Funding for the program established by this~~
7 ~~article shall not, for the collective service territories of all gas~~
8 ~~corporations, exceed two hundred fifty million dollars~~
9 ~~(\$250,000,000) over the course of the 10-year program.~~

10 ~~(3) The commission shall annually establish a surcharge rate~~
11 ~~for each class of gas customers. Any gas customer participating~~
12 ~~in the California Alternate Rates for Energy (CARE) or Family~~
13 ~~Electric Rate Assistance (FERA) programs shall be exempt from~~
14 ~~paying any surcharge imposed to fund the program designed and~~
15 ~~implemented pursuant to this article.~~

16 ~~(4) Any surcharge imposed to fund the program designed and~~
17 ~~implemented pursuant to this article shall not be imposed upon the~~
18 ~~portion of any gas customer's procurement of natural gas that is~~
19 ~~used or employed for a purpose that Section 896 excludes from~~
20 ~~being categorized as the consumption of natural gas.~~

21 ~~(5) The gas corporation or other person or entity providing~~
22 ~~revenue cycle services, as defined in Section 328.1, shall be~~
23 ~~responsible for collecting the surcharge.~~

24 ~~(e) Funds shall be allocated for the benefit of gas customers to~~
25 ~~promote utilization of solar water heating systems.~~

26 ~~(d) In designing and implementing the program required by this~~
27 ~~article, no moneys shall be diverted from any existing programs~~
28 ~~for low-income ratepayers or cost-effective energy efficiency~~
29 ~~programs.~~

30 ~~SEC. 5. Section 2864 of the Public Utilities Code is repealed.~~

31 ~~2864. (a) The commission, in consultation with the Energy~~
32 ~~Commission and interested members of the public, shall establish~~
33 ~~eligibility criteria for solar water heating systems receiving gas~~
34 ~~customer funded incentives pursuant to this article. The criteria~~
35 ~~should specify and include all of the following:~~

36 ~~(1) Design, installation, and energy output or displacement~~
37 ~~standards. To be eligible for rebate funding, a residential solar~~
38 ~~water heating system shall be certified by an accredited listing~~
39 ~~agency in accordance with standards adopted by the commission.~~
40 ~~Solar collectors used in systems for multifamily residential,~~

1 commercial, government, nonprofit, educational, or industrial
2 water heating shall be certified by an accredited listing agency in
3 accordance with standards adopted by the commission. Energy
4 output of collectors and systems shall be determined in accordance
5 with procedures set forth by the listing agency, and shall be based
6 on testing results from accredited testing laboratories.

7 (2) Require that solar water heating system components are new
8 and unused, and have not previously been placed in service in any
9 other location or for any other application.

10 (3) Require that solar water heating collectors have a warranty
11 of not less than 10 years to protect against defects and undue
12 degradation.

13 (4) Require that solar water heating systems are in buildings or
14 facilities connected to a natural gas utility's distribution system
15 within the state.

16 (5) Require that solar water heating systems have meters or
17 other kWh_{th} measuring devices in place to monitor and measure
18 the system's performance and the quantity of energy generated or
19 displaced by the system. The criteria shall require meters for
20 systems with a capacity for displacing over 30 kW_{th}. The criteria
21 may require meters for systems with a capacity of 30 kW_{th} or
22 smaller.

23 (6) Require that solar water heating systems are installed in
24 conformity with the manufacturer's specifications and all
25 applicable codes and standards.

26 (b) Gas customer funded incentives shall not be made for a solar
27 water heating system that does not meet the eligibility criteria.

28 (c) The commission may adopt consensus solar standards
29 applicable to products or systems as developed by accredited
30 standards developers.

31 *SEC. 6. Section 2865 of the Public Utilities Code is repealed.*

32 2865. (a) The commission shall establish conditions on gas
33 customer funded incentives pursuant to this article. The conditions
34 shall require both of the following:

35 (1) Appropriate siting and high-quality installation of the solar
36 water heating system based on installation guidelines that maximize
37 the performance of the system and prevent qualified systems from
38 being inefficiently or inappropriately installed. The conditions
39 shall not impact housing designs or densities presently authorized
40 by a city, county, or city and county. The goal of this paragraph

1 is to achieve efficient installation of solar water heating systems
2 and promote the greatest energy production or displacement per
3 gas customer dollar.

4 (2) Appropriate energy efficiency improvements in the new or
5 existing home or facility where the solar water heating system is
6 installed.

7 (b) The commission shall set rating standards for equipment,
8 components, and systems to ensure reasonable performance and
9 shall develop standards that provide for compliance with the
10 minimum ratings.

11 *SEC. 7. Section 2866 of the Public Utilities Code is repealed.*

12 2866.—(a) The commission shall provide not less than 10
13 percent of the overall funds for installation of solar water heating
14 systems on low-income residential housing.

15 (b) The commission may establish a grant program or a
16 revolving loan or loan guarantee program for low-income
17 residential housing consistent with the requirements of Chapter
18 5.3 (commencing with Section 25425) of Division 15 of the Public
19 Resources Code. All loans outstanding as of August 1, 2018, shall
20 continue to be repaid in a manner that is consistent with the terms
21 and conditions of the program adopted and implemented by the
22 commission pursuant to this subdivision, until repaid in full.

23 (c) The commission may extend eligibility for funding pursuant
24 to this section to include residential housing occupied by ratepayers
25 participating in a commission approved and supervised gas
26 corporation Low-Income Energy Efficiency (LIEE) program and
27 who either:

28 (1) Occupy a single-family home.

29 (2) Occupy at least 50 percent of all units in a multifamily
30 dwelling structure.

31 (d) The commission shall ensure that lower income households,
32 as defined in Section 50079.5 of the Health and Safety Code, and;
33 if the commission expands the program pursuant to subdivision
34 (c), ratepayers participating in a LIEE program, that receive gas
35 service at residential housing with a solar water heating system
36 receiving incentives pursuant to subdivision (a), benefit from the
37 installation of the solar water heating systems through reduced or
38 lowered energy costs.

39 (e) No later than January 1, 2010, the commission shall do all
40 of the following to implement the requirements of this section:

~~(1) Maximize incentives to properties that are committed to continuously serving the needs of lower income households, as defined in Section 50079.5 of the Health and Safety Code, and, if the commission expands the program pursuant to subdivision (c), ratepayers participating in a LIEE program.~~

~~(2) Establish conditions on the installation of solar water heating systems that ensure properties on which solar water heating systems are installed under subdivision (a) remain low-income residential properties for at least 10 years from the time of installation, including property ownership restrictions and income rental protections, and appropriate enforcement of these conditions.~~

~~(f) All moneys set aside for the purpose of funding the installation of solar water heating systems on low-income residential housing that are unexpended and unencumbered on August 1, 2018, and all moneys thereafter repaid pursuant to subdivision (b), except to the extent that those moneys are encumbered pursuant to this section, shall be utilized to augment cost-effective energy efficiency measures in low-income residential housing that benefit ratepayers.~~

SEC. 8. Section 2867 of the Public Utilities Code is repealed.

~~2867. (a) The rebates provided through this program shall decline over time. They shall be structured so as to drive down the cost of the solar water heating technologies, and be paid out on a performance-based incentive basis so that incentives are earned based on the actual energy savings, or on predicted energy savings as established by the commission.~~

~~(b) The commission shall consider federal tax credits and other incentives available for this technology when determining the appropriate rebate amount.~~

~~(c) The commission shall consider the impact of rebates for solar water heating systems pursuant to this article on existing incentive programs for energy efficiency technology.~~

~~(d) In coordination with the commission, the Energy Commission shall consider, when appropriate, coupling rebates for solar water heating systems with complementary energy efficiency technologies, including, but not limited to, efficient hot water heating tanks and tankless or on-demand hot water systems that can be installed in addition to the solar water heating system.~~

SEC. 9. Section 2867.1 of the Public Utilities Code is repealed.

1 ~~2867.1. (a) Not later than July 1, 2010, the commission shall~~
2 ~~report to the Legislature as to the effectiveness of the program and~~
3 ~~make recommendations as to any changes that should be made to~~
4 ~~the program. This report shall include justification for the size of~~
5 ~~the rebate program in terms of total available incentive moneys as~~
6 ~~well as the anticipated benefits of the program in its entirety. To~~
7 ~~facilitate the understanding of how solar water heating systems~~
8 ~~compare with other clean energy and energy efficiency~~
9 ~~technologies, all documents related to and rebates provided by this~~
10 ~~program shall be measured in both kWh_{th} and therms of natural~~
11 ~~gas saved.~~

12 ~~(b) Not later than February 1, 2014, the commission shall~~
13 ~~complete a review of whether the rebate levels established by the~~
14 ~~commission will be sufficient to spur investment to reach the~~
15 ~~program goal of installing 200,000 solar water heating systems in~~
16 ~~homes, businesses, and other buildings or facilities receiving~~
17 ~~natural gas service throughout the state by 2017, and shall report~~
18 ~~to the Legislature on the results of its review. The report submitted~~
19 ~~pursuant to this subdivision shall be submitted in compliance with~~
20 ~~Section 9795 of the Government Code.~~

21 ~~SEC. 10. Section 2867.2 of the Public Utilities Code is~~
22 ~~repealed.~~

23 ~~2867.2. Except for the Solar Water Heating Pilot Program in~~
24 ~~San Diego, solar water heating technologies shall not be eligible~~
25 ~~for California Solar Initiative (CSI) funds, pursuant to Section~~
26 ~~2851, unless they also displace electricity, in which case only the~~
27 ~~electricity displacing portion of the technology may be eligible~~
28 ~~under the CSI program, as determined by the commission.~~

29 ~~SEC. 11. Section 2867.3 of the Public Utilities Code is~~
30 ~~repealed.~~

31 ~~2867.3. In order to further the state goal of encouraging the~~
32 ~~installation of 200,000 solar water heaters by 2017, the governing~~
33 ~~body of each publicly owned utility providing gas service to retail~~
34 ~~end-use gas customers shall, after a public proceeding, adopt,~~
35 ~~implement, and finance a solar water heating system incentive~~
36 ~~program that does all the following:~~

37 ~~(a) Ensures that any solar water heating system receiving~~
38 ~~monetary incentives complies with eligibility criteria adopted by~~
39 ~~the governing body. The eligibility criteria shall include those~~

elements contained in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 2864.

(b) Includes minimum ratings and standards for equipment, components, and systems to ensure reasonable performance and compliance with the minimum ratings and standards.

(c) Includes an element that addresses the installation of solar water heating systems on low-income residential housing. If deemed appropriate in consultation with the California Tax Credit Allocation Committee, the governing board may establish a grant program or a revolving loan or loan guarantee program for low-income residential housing consistent with the requirements of Chapter 5.3 (commencing with Section 25425) of Division 15 of the Public Resources Code.

SEC. 12. Section 2867.4 of the Public Utilities Code is repealed.

2867.4. This article shall remain in effect only until August 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before August 1, 2018, deletes or extends that date.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**All matter omitted in this version of the bill
appears in the bill as introduced in the
Assembly, February 26, 2015. (JR11)**